

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

MARY ANNE MCCREA, Personal  
Representative of the Estate of Andrea  
Mejia, Deceased, and as Successor-in-  
Interest to her daughter, Andrea Mejia,  
former Plaintiff;

Plaintiff,

vs.

SOMATICS, LLC,

Defendant.

**8:21CV3135**

**FINAL PROGRESSION ORDER  
(AMENDED)**

IT IS ORDERED that the parties' joint motion to amend the progression order ([Filing No. 20](#)) is granted. The unexpired deadlines in the amended final progression order ([Filing No. 16](#)) are amended as follows:

- 1) The trial and pretrial conference will not be set at this time. The status conference currently set for January 3, 2023 at 10:00 a.m. is continued to **April 11, 2023 at 10:00 a.m.** The status conference to discuss case progression, the parties' interest in settlement, and the trial and pretrial conference settings will be held with the undersigned magistrate judge by telephone. Counsel shall use the conferencing instructions assigned to this case to participate in the conference.
- 2) The deadline for completing written discovery under Rules 33, 34, 36 and 45 of the Federal Rules of Civil Procedure is November 7, 2022. Motions to compel written discovery under Rules 33, 34, 36, and 45 must be filed by November 28, 2022.

**Note:** A motion to compel, to quash, or for a disputed protective order shall not be filed without first contacting the chambers of the undersigned

magistrate judge to set a conference for discussing the parties' dispute.

- 3) The deadlines for complete expert disclosures<sup>1</sup> for all experts expected to testify at trial, (both retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(B\)](#)), and non-retained experts, ([Fed. R. Civ. P. 26\(a\)\(2\)\(C\)](#)), are:

For the plaintiff(s): August 18, 2022.

For the defendant(s): December 5, 2022.

Plaintiff(s)' rebuttal: January 16, 2023.

- 4) The deposition deadline, including but not limited to depositions for oral testimony only under Rule 45, is April 3, 2023.

a. Depositions will be limited by Rule 30(d)(1).

- 5) The deadline for filing motions to dismiss and motions for summary judgment is May 15, 2023.

- 6) The deadline for filing motions to exclude testimony on *Daubert* and related grounds is July 10, 2023.

- 7) Motions in limine shall be filed seven days before the pretrial conference. It is not the normal practice to hold hearings on motions in limine or to rule on them prior to the first day of trial. Counsel should plan accordingly.

- 8) The parties shall comply with all other stipulations and agreements recited in their Rule 26(f) planning report that are not inconsistent with this order.

- 9) All other deadlines in the court's prior progression orders are unchanged. Any requests for changes of deadlines or settings established herein shall be directed to the undersigned magistrate judge, including all requests for changes of trial dates. Such requests will not be considered absent a showing of due diligence in the timely progression of this case and the recent development of circumstances, unanticipated prior to the filing of the motion, which require that additional time be allowed.

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<sup>1</sup> While treating medical and mental health care providers are generally not considered "specially retained experts," not all their opinions relate to the care and treatment of a patient. Their opinion testimony is limited to what is stated within their treatment documentation. As to each such expert, any opinions which are not stated within that expert's treatment records and reports must be separately and timely disclosed.

Dated this 6th day of September, 2022.

BY THE COURT:

s/ Cheryl R. Zwart

United States Magistrate Judge